ROUTING AND RECORD SHEET

SUBJECT: (Optional)

Executive Registry
75-3063

FROM:
Legislative Counsel
7D49

EXTENSION | NO.

DATE 2 JUL 1975

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TO: (Officer designation, room number, and building)	DATE RECEIVED	DATE FORWARDED	OFFICER'S INITIALS	COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)
1. Director	7/8	9/22	WEC/blp	Attached for your information is a summary we have prepared for Jack Marsh and Max Friedersdorf of the White House staff regarding relevant legislation before the 94th Congress.
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George L. Cary
Legislative Counsel

cc: OGC
Mr. Clarke
Mr. Knoche

Summary of Various Legislative Proposals of Interest to the Central Intelligence Agency

A. Congressional Review of Executive Agreements

B. Freedom of Information Act Amendments

C. National Security Act Amendments

D. Privacy Act Amendments

E. CIA Oversight by Congress

F. GAO Audits of Intelligence Agencies

G. Financial Disclosure

CONGRESSIONAL APPROVAL OF EXECUTIVE AGREEMENTS

Several bills have been introduced which would subject Executive agreements to congressional review. These include S. 632, introduced by Senator Bentsen; S. 1251, introduced by Senator Glenn, and its companion bill H. R. 5489, introduced by Representative Spellman; and H. R. 4438, introduced by Representative Morgan and by 22 other members of the House International Relations Committee.

Each of these bills proposes similar congressional review procedures. Executive agreements would be transmitted to Congress and would come into force after a 60-day period unless disapproved by both Houses. If the President believes disclosure of an agreement would prejudice national security, the agreement would be transmitted to the Senate Foreign Relations and House International Relations Committees under a "written injunction of secrecy." The committees would thereupon make the secret agreements available for inspection only by members of their respective Houses.

These bills have been spawned by the belief that the Senate's treaty-making authority, which it shares with the President, has been bypassed by the device of the Executive agreement. The practical and constitutional impact of these bills hinges on the scope of their definition of Executive agreement.

(a) S. 632 defines Executive agreement as "any bilateral or multilateral international agreement or commitment, other than a treaty, which is binding upon the United States, and which is made by the President or any officer, employee, or representative of the executive branch ... "

(b) S. 1251 defines the term as "any bilateral or multilateral international agreement or understanding, formal or informal, written or verbal, other than a treaty, which involves, or the intent is to leave the impression of, a commitment of manpower, funds, information, or other resources of the United States, and which is made by the President or any officer, employee, or representative of the executive branch ... "

(c) H. R. 4438 defines Executive agreement as "any bilateral or multilateral international agreement or commitment, regardless of its designation, other than a treaty, and including an agency-to-agency agreement, which is made by the President or any officer, employee, or representative of the executive branch ... " Only Executive agreements "concerning the establishment, renewal, continuance, or revision of a national commitment" are required to be reported to Congress under this bill. However, the term "national commitment" is defined

as "any agreement or promise, (1) regarding the introduction, basing, or deployment of the Armed Forces of the United States on foreign territory; or (2) regarding the provision to a foreign country, government, or people, any military training or equipment including component parts and technology, any nuclear technology, or any financial or material resources."

Because these definitions of Executive agreement are so expansive, and the "secrecy" provisions of these bills are so palpably inadequate, their enactment would severely cripple the national intelligence effort both with respect to intelligence-gathering and nonintelligence-gathering activities.

Cooperation with foreign counterpart services is absolutely essential to successful intelligence collection. Formal or informal, such relationships usually involve a quid pro quo and may be on regular or ad hoc basis. Because in many cases foreign services would cease cooperation if there were even a risk of disclosure or acknowledgment of their relationship, the bills reviewed above would destroy much essential liaison by subjecting it to plenary congressional review and approval.

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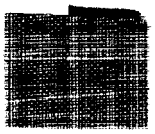

FREEDOM OF INFORMATION ACT AMENDMENTS

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If it is the intent of the bill to require an employee to obtain official screening and approval before releasing a document, such fact needs to be clearly stated in the bill. This would alleviate the major potential problem with the bill, but others would remain. These include:

1. Section 102(c) of the National Security Act of 1947 (50 U.S.C. 403) grants the Director of Central Intelligence the power to terminate the employment of any CIA employee when in his complete discretion, such termination would be necessary or advisable in the interests of the United States. The restriction in S. 1210 on adverse personnel actions is inconsistent with the statutory authority of the DCI.

2. The bill provides a perfect tool for disgruntled agency employees to work against their agency, rather than working from within to correct deficiencies as they see them. Also, under the guise of protecting employees from retributive agency action, the bill could subject employees to new pressures and impose very serious responsibilities on individuals who are without corresponding expertise. Investigative reporters and other outsiders could badger

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3. Section (f)(1)(B) establishes the right of employees to make any information whatsoever available to Members of Congress, even information protected from public disclosure under exceptions to the Freedom of Information Act. This section would frustrate and confuse agency attempts to report to Congress through orderly channels. It would also contradict congressionally-established procedures of restricting access to sensitive intelligence information to the intelligence oversight subcommittees. Finally, it could create a major complication for the Director in discharging the responsibility placed upon him by the Congress to protect Intelligence Sources and Methods from unauthorized disclosure (50 U.S.C. 403).

4. Proposed section (f)(4) of the bill creates a presumption that any adverse personnel action taken against an employee within one year after that employee released information under the FOIA is predicated on the release of the information. This section would readily lead to abuses, by encouraging employees who were in danger of adverse personnel action to release material in order to gain unwarranted advantage of the presumption.

NATIONAL SECURITY AND CIA ACT AMENDMENTS

Key Bills

During the 93rd Congress, Senator Stennis, Senator Proxmire, Representative Nedzi, and others introduced proposals to amend the CIA section of the National Security Act of 1947. Senator Proxmire (S. 244) and Representatives McCloskey (H.R. 628), Dellums (H.R. 343), and Findley (H.R. 5873) have introduced National Security Act amendments in the 94th Congress. During the 93rd Congress, the Senate approved an amendment to the Fiscal 1975 Defense Authorization bill (H.R. 14592), which incorporated the Proxmire language, but the amendment was rejected in conference on the point of germaneness. Representative Nedzi held hearings on his bill in July 1974, but his Armed Services subcommittee did not report a bill. No action by the 94th Congress is expected until the House and Senate Select Committees currently investigating the Agency make their recommendations.

Various Provisions

Following are the specific proposed amendments to the Act which appear in one or more of the bills introduced in the 93rd or 94th Congress.

1. Insert the word "foreign" before the word "intelligence" in the Act, wherever it refers to the activities authorized to be undertaken by the Central Intelligence Agency (Stennis, Proxmire, Nedzi, Bennett bills).

2. Reiterate existing prohibitions against CIA assuming any police or law-enforcement powers, or internal-security functions (Stennis, Proxmire, Nedzi bills).

3. Enumerate permissable activities for the CIA in the United States:

   (a) Protect CIA installations;

   (b) Conduct personnel investigations of employees and applicants, and others with access to CIA information;

   (c) Provide information resulting from foreign intelligence activities to other appropriate agencies and departments;

   (d) Carry on within the United States activities necessary to support its foreign intelligence responsibilities.

The Stennis, Proxmire, and Nedzi bills include (a), (b), and (c), but only the Nedzi and Stennis bills include item (d), which is considered to be an essential proviso.

4. Require the CIA to report to Congress on all activities undertaken pursuant to section 102(d)(5) of the National Security Act (this proposal was somewhat overtaken by enactment of section 32 of P. L. 93-559 requiring Presidential finding and covert action reporting to six committees of the Congress--oversight committees and foreign affairs committees of both Houses) (Nedzi, Proxmire, and Stennis).

5. Require the Director to develop plans, policies, and regulations in support of the present statutory requirement to protect Intelligence Sources and Methods from unauthorized disclosure, and report to the Attorney General for appropriate action any violation of such plans, policies, or regulations. This requirement shall not be construed to authorize CIA to engage in expressly prohibited domestic activity (no police, subpoena, or law-enforcement powers, or internal-security functions) (Nedzi and Stennis).

6. Prohibit CIA from participating, directly or indirectly, in any illegal activity within the United States (Proxmire and Dellums).

7. Prohibit transactions between the Agency and former employees, except for purely official matters (Nedzi).

8. Prohibit covert action (McCloskey and Dellums).

9. Limit the DCI to eight years in office (Dellums).

10. Provide that the positions of the Director and Deputy Director may not be simultaneously occupied by individuals who were employed by CIA during the five years prior to their appointment (Dellums).

11. Require advance approval of the four oversight committees before assistance of any kind is provided to a federal, state, or local governmental agency (Dellums).

12. Require the Agency to prepare special reports on foreign situations at the request of specified committees of Congress, and provide for the availability of these reports to all members of Congress (Findley).

13. Establish a criminal penalty for a violation of the prohibition on the Agency assuming police, subpoena, law-enforcement powers, or internal-security functions (Findley).

14. Expressly subject Agency employees testifying before the Congress to existing United States Code provisions regarding perjury and witness' privileges (Findley).

15. Add a statutory directive that the Agency collect intelligence (Bennett).

16. Require the Agency to notify American citizens when it is collecting intelligence from them within the United States or its possessions, except pursuant to published Executive Order (Bennett).

17. Limit the authority of the Director to protect Intelligence Sources and Methods from unauthorized disclosure within the United States to

(a) lawful means used to prevent disclosure by present or former employees, agents, sources, or persons or employees of persons or organizations who contract with the Agency or are affiliated with it; and

(b) provide guidance and technological assistance to other Federal departments and agencies performing intelligence functions (Bennett).

PRIVACY

The 93rd Congress enacted landmark privacy legislation, (P.L. 93-579), which will become effective in September 1975. In drafting the Privacy Act, Congress recognized that "certain areas of Federal records are of such a highly sensitive nature that they must be exempted" (House Report 93-1416). Accordingly, Congress exempted systems of records "specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy" [subsection (k)(1)], and Central Intelligence Agency records [subsection (j)(1)] from portions of the Act. Sections of the Act which do apply to CIA prohibit the dissemination of records except for specific enumerated purposes, require the Agency to maintain a listing of each disclosure of a record for at least five years, and publish annually in the Federal Register a general description of our systems of records concerning American citizens or permanent resident aliens. The Agency is exempt from the section granting citizens or permanent resident aliens access to records held on them by federal agencies.

Proposals by Representative Abzug (H.R. 169, 2635) would strike the exemption for CIA records. Ms. Abzug, who led an unsuccessful floor fight during the 93rd Congress to strike the committee-sponsored CIA exemption, is now Chairperson of the House Government Operations Subcommittee on Government Information and Individual Rights, which has jurisdiction over the Privacy and Freedom of Information Acts. She held well-publicized hearings on this subject on March 5 and June 25, at which the Director testified.

Although some CIA information can be protected by the section (k)(1) exemption for national defense or foreign policy information, this exemption would not fully protect Intelligence Sources and Methods information contained in the Agency's system of records. An intelligence document can reveal sources and methods and warrant protection even though the substantive information conveyed does not jeopardize the national defense or foreign policy. An example may help explain this. A and B, U. S. citizens, attend a scientific conference abroad of foreign intelligence interest to the United States. A voluntarily provides the Agency confidential information on the conference and includes information concerning B, or a foreign asset reports on the conference and includes information on A and B. Disclosure of the information on either A or B could reveal A or the foreign asset as the source of the information.

An exemption in the Act for foreign intelligence sources and methods, rather than the present exemption for CIA records is satisfactory. This point has been made during the hearings, but Ms. Abzug seems determined to push for the elimination of the CIA exemption, without a substitute sources and methods exemption.

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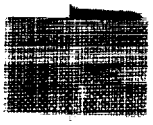
CIA OVERSIGHT PROPOSALS

The longstanding congressional oversight procedure of reporting on Agency operations only to the Armed Services and Appropriations Committees of both houses was significantly altered by the Foreign Assistance Act of 1974, which requires reporting on covert action to the foreign affairs committees of both Houses. This means six committees now receive reports on covert operations. Other, more far-reaching proposals have been introduced in the 94th Congress. The Senate Subcommittee on Intergovernmental Relations of the Committee on Government Operations held hearings on 9 and 10 December 1974 regarding CIA oversight. Senator Muskie, Chairman of this Subcommittee, originally announced additional hearings for early 1975, but is deferring to the Senate Select Committee.



Following are sketches of proposals to alter the permanent CIA oversight mechanism. All House bills on oversight have been referred to the Rules Committee. Jurisdiction of the Senate bills is split between the Armed Services, Government Operations, and Rules Committees.

1. Joint Committee on Intelligence Oversight (S. 317, H.R. 463)

Senators Baker and Weicker and twenty-five co-sponsors introduced the Senate proposal in the 93rd Congress and again in January. Senators Baker and Weicker spoke in favor of their bill during the Muskie hearings last December. Representatives Frenzel and Steelman introduced the companion House bill. The Joint Committee on Intelligence Oversight would have fourteen members, appointed by the leadership, and the chairmanship would alternate between the House and Senate members for each Congress. The legislative jurisdiction of the Committee would extend to CIA, FBI, Secret Service, DIA, NSA, and all other governmental activities pertaining to intelligence gathering or surveillance of persons. Heads of all named departments would be required to keep the Committee fully and currently informed of all activities.

2. Joint Committee on National Security (S. 99, H.R. 54)

This bill was introduced in the 93rd and 94th Congresses by Senator Humphrey. Representative Zablocki is the House sponsor. Dr. Ray Cline, formerly a CIA official and later the Director of the Bureau of Intelligence and Research, Department of State, spoke in favor of this proposal during the Muskie hearings.

The Joint Committee on National Security would consist of the Speaker, Majority and Minority members of each house, the chairman and ranking Minority members of the Armed Services, Appropriations, foreign affairs, Joint Atomic Energy Committees, three other Representatives, and three other Senators.

Proposed functions of the Committee are to study foreign, domestic, and military national security policies, study the National Security Council, and study government classification practices, and report periodically to each House on the Committee's findings. This bill would apparently not change any present jurisdiction (e.g., the Armed Services Committees would retain legislative jurisdiction over CIA); it would merely supplement it.

3. Joint Committee on the Continuing Study of the Need to Reorganize the Departments and Agencies Engaging in Surveillance (S. 189)

Senators Nelson, Jackson, and Muskie introduced this proposal. Senator Nelson introduced a similar proposal last Congress, and supported it during the Muskie hearings. This committee would be composed of eight Senators and eight Representatives, with an equal party split. The Committee would be empowered to study the need to reorganize U. S. agencies engaged in investigation or surveillance of individuals (citizenship not specified), the extent, methods, authority, and need for such investigation or surveillance, and the state-federal relationship in this area. The Joint Committee would not have jurisdiction to examine activities conducted outside the United States, but may recommend means for Congress to oversee such extraterritorial activity.

4. Joint Committee on Information and Intelligence (S.Con.Res. 4)

Senator Hathaway is the sponsor of this proposal. It would create a fourteen-member joint committee to study the activities of each information and intelligence agency and their interralationships.

5. Several other House bills or resolutions would create joint committees to assume CIA oversight and would either have members appointed by the leadership or drawn from specified committees (such as Armed Services, Appropriations, Foreign Relations, International Relations, and Government Operations). Among this group are H.R. 261, H.Con.Res. 18, H.R. 2232. H.Res. 51 would create a new standing committee of the House entitled the Committee on the Central Intelligence Agency.

6. Mr. Dellums has reintroduced the "Central Intelligence Agency Disclosure Act," H.R. 1267, amending certain statutory authorities to modify Agency exemptions in the area of reporting to Congress. The bill would impose a positive duty on the Agency to report to congressional committees and subcommittees upon request sensitive details on prospective activities, contracts, and covert funding, information already available to appropriate oversight committees under current procedures. The Agency would also be required upon request to provide any substantive and operational information to any congressional committee or subcommittee relating to any matter within its jurisdiction. These provisions would proliferate sensitive information on Agency operations throughout the Congress and fragment oversight responsibilities.

GENERAL ACCOUNTING OFFICE AUDITS

Senator Proxmire has introduced S. 653, amending the Budget and Accounting Act of 1921. This bill would authorize the Comptroller General to conduct an audit of the accounts and operations of an intelligence agency, when requested by a congressional committee with legislative jurisdiction of that agency. The legislation states this audit shall be conducted notwithstanding the provision of section 8(b) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403).

Section 102(d)(3) of the National Security Act of 1947 (50 U.S.C. 403) charges the Director of Central Intelligence with protecting Intelligence Sources and Methods from unauthorized disclosure. One of the key statutory tools assisting the Director in this pursuit is section 8, which would be severely eroded by enactment of S. 653. Section 8(b) states:

> "(b) The sums made available to the Agency may be expended without regard to the provisions of law and regulations relating to the expenditure of Government funds; and for objects of a confidential, extraordinary, or emergency nature, such expenditures to be accounted for solely on the certificate of the Director and every such certificate shall be deemed a sufficient voucher for the amount therein certified."

Officials of GAO have expressed their support for this unique authority.

GAO began auditing CIA's vouchered accounts in 1949, and began an expanded audit in 1959. However, the Agency, with approval of the congressional oversight committees, did not permit GAO to inspect our most sensitive records. As a result of GAO's insistence that it did "not have sufficient access to make comprehensive reviews on a continuing basis that would be productive of evaluations helpful to the Congress," the audit was terminated in 1962. CIA responded by establishing additional internal audit and review procedures, which observe the same audit principles and standards as the GAO.

The Agency believes section 8(b) must not be encumbered in any way. It is extremely important to the Director's ability to protect Intelligence Sources and Methods from unauthorized disclosure. The Agency has always felt that an arrangement could be reached which would comport with GAO audit requirements while not jeopardizing Intelligence Sources and Methods. However, we oppose any legislation which would authorize any additional access to our most sensitive records.

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FINANCIAL DISCLOSURE

Bills introduced in both Houses would require federal employees receiving specified salaries (e.g., above $25,000 per year) to file financial statements with the Comptroller General. One bill would only require a statement of assets and liabilities, while most of the bills require a listing of:

(a) amount and source of each item of income and gift over $100;

(b) value of each asset held by him solely or jointly with his wife;

(c) amount of each liability owed;

(d) all dealings in securities or commodities;

(e) all purchases and sales of real property.

The public is to be granted access to the statements. Criminal penalties are prescribed for willfully filing false statements or failing to file a statement.

These proposals conflict with section 6 of the CIA Act of 1949, which states that "the Agency shall be exempted from the provisions of ... any other law which require(s) the publication or disclosure of the organization, functions, names, official titles, salaries, or numbers of personnel employed by the Agency." They would also raise very serious security problems, and are contrary to the spirit of privacy so recently endorsed by the Congress.

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NATIONAL SECURITY AND CIA ACT AMENDMENTS

Key Bills

During the 93rd Congress, Senator Stennis, Senator Proxmire, Representative Nedzi, and others introduced proposals to amend the CIA section of the National Security Act of 1947. Senator Proxmire (S. 244) and Representatives McCloskey (H.R. 628), Dellums (H.R. 343), and Findley (H.R. 5873) have introduced National Security Act amendments in the 94th Congress. During the 93rd Congress, the Senate approved an amendment to the Fiscal 1975 Defense Authorization bill (H.R. 14592), which incorporated the Proxmire language, but the amendment was rejected in conference on the point of germaneness. Representative Nedzi held hearings on his bill in July 1974, but his Armed Services subcommittee did not report a bill. No action by the 94th Congress is expected until the House and Senate Select Committees currently investigating the Agency make their recommendations.

Various Provisions

Following are the specific proposed amendments to the Act which appear in one or more of the bills introduced in the 93rd or 94th Congress.

1. Insert the word "foreign" before the word "intelligence" in the Act, wherever it refers to the activities authorized to be undertaken by the Central Intelligence Agency (Stennis, Proxmire, Nedzi, Bennett bills).

2. Reiterate existing prohibitions against CIA assuming any police or law-enforcement powers, or internal-security functions (Stennis, Proxmire, Nedzi bills).

3. Enumerate permissable activities for the CIA in the United States:

   (a) Protect CIA installations;

   (b) Conduct personnel investigations of employees and applicants, and others with access to CIA information;

   (c) Provide information resulting from foreign intelligence activities to other appropriate agencies and departments;

   (d) Carry on within the United States activities necessary to support its foreign intelligence responsibilities.

The Stennis, Proxmire, and Nedzi bills include (a), (b), and (c), but only the Nedzi and Stennis bills include item (d), which is considered to be an essential proviso.

4. Require the CIA to report to Congress on all activities undertaken pursuant to section 102(d)(5) of the National Security Act (this proposal was somewhat overtaken by enactment of section 32 of P. L. 93-559 requiring Presidential finding and covert action reporting to six committees of the Congress--oversight committees and foreign affairs committees of both Houses) (Nedzi, Proxmire, and Stennis).

5. Require the Director to develop plans, policies, and regulations in support of the present statutory requirement to protect Intelligence Sources and Methods from unauthorized disclosure, and report to the Attorney General for appropriate action any violation of such plans, policies, or regulations. This requirement shall not be construed to authorize CIA to engage in expressly prohibited domestic activity (no police, subpoena, or law-enforcement powers, or internal-security functions) (Nedzi and Stennis).

6. Prohibit CIA from participating, directly or indirectly, in any illegal activity within the United States (Proxmire and Dellums).

7. Prohibit transactions between the Agency and former employees, except for purely official matters (Nedzi).

8. Prohibit covert action (McCloskey and Dellums).

9. Limit the DCI to eight years in office (Dellums).

10. Provide that the positions of the Director and Deputy Director may not be simultaneously occupied by individuals who were employed by CIA during the five years prior to their appointment (Dellums).

11. Require advance approval of the four oversight committees before assistance of any kind is provided to a federal, state, or local governmental agency (Dellums).

12. Require the Agency to prepare special reports on foreign situations at the request of specified committees of Congress, and provide for the availability of these reports to all members of Congress (Findley).

13. Establish a criminal penalty for a violation of the prohibition on the Agency assuming police, subpoena, law-enforcement powers, or internal-security functions (Findley).

14. Expressly subject Agency employees testifying before the Congress to existing United States Code provisions regarding perjury and witness' privileges (Findley).

15. Add a statutory directive that the Agency collect intelligence (Bennett).

16. Require the Agency to notify American citizens when it is collecting intelligence from them within the United States or its possessions, except pursuant to published Executive Order (Bennett).

17. Limit the authority of the Director to protect Intelligence Sources and Methods from unauthorized disclosure within the United States to

(a) lawful means used to prevent disclosure by present or former employees, agents, sources, or persons or employees of persons or organizations who contract with the Agency or are affiliated with it; and

(b) provide guidance and technological assistance to other Federal departments and agencies performing intelligence functions (Bennett).

PRIVACY

The 93rd Congress enacted landmark privacy legislation, (P.L. 93-579), which will become effective in September 1975. In drafting the Privacy Act, Congress recognized that "certain areas of Federal records are of such a highly sensitive nature that they must be exempted" (House Report 93-1416). Accordingly, Congress exempted systems of records "specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy" [subsection (k)(1)], and Central Intelligence Agency records [subsection (j)(1)] from portions of the Act. Sections of the Act which do apply to CIA prohibit the dissemination of records except for specific enumerated purposes, require the Agency to maintain a listing of each disclosure of a record for at least five years, and publish annually in the Federal Register a general description of our systems of records concerning American citizens or permanent resident aliens. The Agency is exempt from the section granting citizens or permanent resident aliens access to records held on them by federal agencies.

Proposals by Representative Abzug (H.R. 169, 2635) would strike the exemption for CIA records. Ms. Abzug, who led an unsuccessful floor fight during the 93rd Congress to strike the committee-sponsored CIA exemption, is now Chairperson of the House Government Operations Subcommittee on Government Information and Individual Rights, which has jurisdiction over the Privacy and Freedom of Information Acts. She held well-publicized hearings on this subject on March 5 and June 25, at which the Director testified.

Although some CIA information can be protected by the section (k)(1) exemption for national defense or foreign policy information, this exemption would not fully protect Intelligence Sources and Methods information contained in the Agency's system of records. An intelligence document can reveal sources and methods and warrant protection even though the substantive information conveyed does not jeopardize the national defense or foreign policy. An example may help explain this. A and B, U. S. citizens, attend a scientific conference abroad of foreign intelligence interest to the United States. A voluntarily provides the Agency confidential information on the conference and includes information concerning B, or a foreign asset reports on the conference and includes information on A and B. Disclosure of the information on either A or B could reveal A or the foreign asset as the source of the information.

An exemption in the Act for foreign intelligence sources and methods, rather than the present exemption for CIA records is satisfactory. This point has been made during the hearings, but Ms. Abzug seems determined to push for the elimination of the CIA exemption, without a substitute sources and methods exemption.

CIA OVERSIGHT PROPOSALS

The longstanding congressional oversight procedure of reporting on Agency operations only to the Armed Services and Appropriations Committees of both houses was significantly altered by the Foreign Assistance Act of 1974, which requires reporting on covert action to the foreign affairs committees of both Houses. This means six committees now receive reports on covert operations. Other, more far-reaching proposals have been introduced in the 94th Congress. The Senate Subcommittee on Intergovernmental Relations of the Committee on Government Operations held hearings on 9 and 10 December 1974 regarding CIA oversight. Senator Muskie, Chairman of this Subcommittee, originally announced additional hearings for early 1975, but is deferring to the Senate Select Committee.

Following are sketches of proposals to alter the permanent CIA oversight mechanism. All House bills on oversight have been referred to the Rules Committee. Jurisdiction of the Senate bills is split between the Armed Services, Government Operations, and Rules Committees.

1. Joint Committee on Intelligence Oversight (S. 317, H.R. 463)

Senators Baker and Weicker and twenty-five co-sponsors introduced the Senate proposal in the 93rd Congress and again in January. Senators Baker and Weicker spoke in favor of their bill during the Muskie hearings last December. Representatives Frenzel and Steelman introduced the companion House bill. The Joint Committee on Intelligence Oversight would have fourteen members, appointed by the leadership, and the chairmanship would alternate between the House and Senate members for each Congress. The legislative jurisdiction of the Committee would extend to CIA, FBI, Secret Service, DIA, NSA, and all other governmental activities pertaining to intelligence gathering or surveillance of persons. Heads of all named departments would be required to keep the Committee fully and currently informed of all activities.

2. Joint Committee on National Security (S. 99, H.R. 54)

This bill was introduced in the 93rd and 94th Congresses by Senator Humphrey. Representative Zablocki is the House sponsor. Dr. Ray Cline, formerly a CIA official and later the Director of the Bureau of Intelligence and Research, Department of State, spoke in favor of this proposal during the Muskie hearings.

The Joint Committee on National Security would consist of the Speaker, Majority and Minority members of each house, the chairman and ranking Minority members of the Armed Services, Appropriations, foreign affairs, Joint Atomic Energy Committees, three other Representatives, and three other Senators.

Proposed functions of the Committee are to study foreign, domestic, and military national security policies, study the National Security Council, and study government classification practices, and report periodically to each House on the Committee's findings. This bill would apparently not change any present jurisdiction (e.g., the Armed Services Committees would retain legislative jurisdiction over CIA); it would merely supplement it.

3. Joint Committee on the Continuing Study of the Need to Reorganize the Departments and Agencies Engaging in Surveillance (S. 189)

Senators Nelson, Jackson, and Muskie introduced this proposal. Senator Nelson introduced a similar proposal last Congress, and supported it during the Muskie hearings. This committee would be composed of eight Senators and eight Representatives, with an equal party split. The Committee would be empowered to study the need to reorganize U. S. agencies engaged in investigation or surveillance of individuals (citizenship not specified), the extent, methods, authority, and need for such investigation or surveillance, and the state-federal relationship in this area. The Joint Committee would not have jurisdiction to examine activities conducted outside the United States, but may recommend means for Congress to oversee such extraterritorial activity.

4. Joint Committee on Information and Intelligence (S.Con.Res. 4)

Senator Hathaway is the sponsor of this proposal. It would create a fourteen-member joint committee to study the activities of each information and intelligence agency and their interralationships.

5. Several other House bills or resolutions would create joint committees to assume CIA oversight and would either have members appointed by the leadership or drawn from specified committees (such as Armed Services, Appropriations, Foreign Relations, International Relations, and Government Operations). Among this group are H.R. 261, H.Con.Res. 18, H.R. 2232. H.Res. 51 would create a new standing committee of the House entitled the Committee on the Central Intelligence Agency.

6. Mr. Dellums has reintroduced the "Central Intelligence Agency Disclosure Act," H.R. 1267, amending certain statutory authorities to modify Agency exemptions in the area of reporting to Congress. The bill would impose a positive duty on the Agency to report to congressional committees and subcommittees upon request sensitive details on prospective activities, contracts, and covert funding, information already available to appropriate oversight committees under current procedures. The Agency would also be required upon request to provide any substantive and operational information to any congressional committee or subcommittee relating to any matter within its jurisdiction. These provisions would proliferate sensitive information on Agency operations throughout the Congress and fragment oversight responsibilities.

GENERAL ACCOUNTING OFFICE AUDITS

Senator Proxmire has introduced S. 653, amending the Budget and Accounting Act of 1921. This bill would authorize the Comptroller General to conduct an audit of the accounts and operations of an intelligence agency, when requested by a congressional committee with legislative jurisdiction of that agency. The legislation states this audit shall be conducted notwithstanding the provision of section 8(b) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403).

Section 102(d)(3) of the National Security Act of 1947 (50 U.S.C. 403) charges the Director of Central Intelligence with protecting Intelligence Sources and Methods from unauthorized disclosure. One of the key statutory tools assisting the Director in this pursuit is section 8, which would be severely eroded by enactment of S. 653. Section 8(b) states:

> "(b) The sums made available to the Agency may be expended without regard to the provisions of law and regulations relating to the expenditure of Government funds; and for objects of a confidential, extraordinary, or emergency nature, such expenditures to be accounted for solely on the certificate of the Director and every such certificate shall be deemed a sufficient voucher for the amount therein certified."

Officials of GAO have expressed their support for this unique authority.

GAO began auditing CIA's vouchered accounts in 1949, and began an expanded audit in 1959. However, the Agency, with approval of the congressional oversight committees, did not permit GAO to inspect our most sensitive records. As a result of GAO's insistence that it did "not have sufficient access to make comprehensive reviews on a continuing basis that would be productive of evaluations helpful to the Congress," the audit was terminated in 1962. CIA responded by establishing additional internal audit and review procedures, which observe the same audit principles and standards as the GAO.

The Agency believes section 8(b) must not be encumbered in any way. It is extremely important to the Director's ability to protect Intelligence Sources and Methods from unauthorized disclosure. The Agency has always felt that an arrangement could be reached which would comport with GAO audit requirements while not jeopardizing Intelligence Sources and Methods. However, we oppose any legislation which would authorize any additional access to our most sensitive records.

FINANCIAL DISCLOSURE

Bills introduced in both Houses would require federal employees receiving specified salaries (e.g., above $25,000 per year) to file financial statements with the Comptroller General. One bill would only require a statement of assets and liabilities, while most of the bills require a listing of:

(a) amount and source of each item of income and gift over $100;

(b) value of each asset held by him solely or jointly with his wife;

(c) amount of each liability owed;

(d) all dealings in securities or commodities;

(e) all purchases and sales of real property.

The public is to be granted access to the statements. Criminal penalties are prescribed for willfully filing false statements or failing to file a statement.

These proposals conflict with section 6 of the CIA Act of 1949, which states that "the Agency shall be exempted from the provisions of ... any other law which require(s) the publication or disclosure of the organization, functions, names, official titles, salaries, or numbers of personnel employed by the Agency." They would also raise very serious security problems, and are contrary to the spirit of privacy so recently endorsed by the Congress.